

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

JERRY L. McGLONE II,

Plaintiff,
v.
**Case No. 2:15-cv-1534
JUDGE GREGORY L. FROST
Magistrate Judge Terence P. Kemp**

**ROSS CORRECTIONAL
INST., et al.,**

Defendants.

OPINION AND ORDER

This matter is before the Court for consideration of the Magistrate Judge's August 31, 2015 Report and Recommendation (ECF No. 7) and Plaintiff's objection (ECF No. 8). For the reasons that follow, the Court overrules the objection and adopts the Report and Recommendation.

In the Report and Recommendation, the Magistrate Judge explained that Plaintiff had previously been afforded the opportunity to either pay the filing fee or to submit a motion for leave to proceed *in forma pauperis*. The Magistrate Judge noted that although Plaintiff had then filed a motion for leave to proceed *in forma pauperis*, Plaintiff had failed to include the trust fund statement required under 28 U.S.C. § 1915(a). Therefore, the Magistrate Judge noted, Plaintiff had been given an additional thirty days from the Magistrate Judge's June 26, 2015 Order in which to submit the missing statement or else he would be assessed the full filing fee and his case would be dismissed for want of prosecution without the possibility of reinstatement. Because Plaintiff filed nothing in response to the Magistrate Judge's June 26, 2015 Order, the Magistrate Judge recommended that the Court assess the full filing fee and dismiss this case for failure to prosecute. (ECF No. 7, at Page ID # 55.)

Plaintiff objects to this recommendation. When a party objects within the allotted time to a report and recommendation, the Court “shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b). Upon review, the Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

Plaintiff’s objection fails. The objection bears a case caption for a different case, Case No. 1:13-cv-126, and initially addresses events that occurred in 2013. Handwritten changes to the first page of the objection insert the instant case’s case number and include a service date of September 8, 2015. (ECF No. 8, at Page ID # 56.) But the substance of the first page of the objection fails to speak to Plaintiff’s failure to file a trust fund statement as ordered by the Magistrate Judge. In a second, handwritten page attached to the objection, Plaintiff then asserts that an individual, apparently the correctional institution cashier, had failed to send “the proper form” and that the form was now “enclosed.” (*Id.* at page ID # 57.) But the additional attachments to the objection do not contain a trust fund statement; the attachments are two requests for the issuance of subpoenas and a subpoena, all made on state court forms. (*Id.* at Page ID # 58-60.)

This Court agrees with the reasoning and recommendation of the Magistrate Judge. Plaintiff has twice been afforded the opportunity to correct the deficient manner in which he attempted to pursue the instant case. Instead of addressing the deficiency, Plaintiff has filed a document that presents information that is irrelevant to the deficiency and, despite asserting otherwise, Plaintiff has still failed to remedy the deficiency, even belatedly. Accordingly, Plaintiff’s objection is wholly without merit.

For the foregoing reasons, the Court **OVERRULES** Plaintiff's objection (ECF No. 8), **ADOPTS** and **AFFIRMS** the Report and Recommendation (ECF No. 7), **ASSESSES** Plaintiff the full filing fee of \$400.00, and **DISMISSES** the case for want of prosecution without the possibility of reinstatement. The Clerk shall enter judgment accordingly and terminate this case on the docket records of the United States District Court for the Southern District of Ohio, Eastern Division.

IT IS SO ORDERED.

/s/ Gregory L. Frost
GREGORY L. FROST
UNITED STATES DISTRICT JUDGE